

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Modern Rules of Procedure Docket No.
RM2012-4
for the Issuance of
Advisory Opinions in Nature of
Service Proceedings

DOCKET NO. RM2012-4

**COMMENTS OF NATIONAL NEWSPAPER ASSOCIATION WITNESS
ON PROPOSED RULES FOR NATURE OF SERVICE PROCEEDINGS
(JUNE 8, 2012)**

National Newspaper Association (NNA) hereby provides its views on changes in procedural rules for Nature of Service proceedings.

NNA recognizes the pressures on both the Commission and the Postal Service to respond to changing economic conditions and the Postal Service's deteriorating financial conditions. At the same time, the types of proceedings involved in nature of service cases are of necessity ones that require careful investigation and thought. The outcomes may be irreversible and may visit permanent harm upon the institution, postal customers and/or the marketplace in which USPS functions. Precisely because of the natural response of an institution to deteriorating conditions, the temptation to make short term changes that may lead to long-term harm is compelling. The Commission's role is to provide a measure of protection against such a response.

NNA remains one of the few organizations representing small businesses that still appear before the Commission. The expense of participation is intimidating for governing bodies of the parties whose views might be most needed by the Commission. Because legal and economic counsel, research and

executive time all carry costs, organizations must carefully weigh the value of participation. NNA is aware of several organizations that have drawn back from participation in recent years because of the expense and, indeed, NNA struggles to remain active in cases of greatest consequence to its members.

Shortening the proceedings without changing the underlying substance would add cost for the parties as well as, most likely, for the Commission itself because more intensive work in developing a record requires more people working in a shorter time span. But changing the underlying substance—such as eliminating fact-finding hearings—puts all parties at risk of decisions that all ill-advised and able to visit harm upon the mailers, the marketplace or the Postal Service. To cite one example, NNA considers the risks inherent in MC2012-14, the Negotiated Service Case involving Valassis, Inc., where the affected parties are unable to directly engage in discovery, are reliant upon filings to advise the Presiding Officer's own inquiry, and are at risk of a decision on a record that is woefully short of findings on key questions with which the Commission must grapple. On the other hand, by engaging in discovery of the Postal Service's plans in several of the recent dockets, including the retail optimization docket, N2011-1, and the current case network optimization case N2012-1, NNA has been able to better understand the Postal Service's intent and planned practices so it can help its industry adapt and provide insight to the Commission on how service might be altered by not lost. NNA, for example, learned more about the Postal Service's rationale for small post office closings in N2011-1 and suggested that the Postal Service consider reducing hours at post offices critical

to smaller communities and instead using a “circuit-rider” approach to supervision rather than closing the offices outright. USPS is now pursuing such a policy.

Consequently, while NNA understands the need for expedition in some cases, it also notes that the conditions facing the Postal Service did not begin to unwind in the past year or two but have been developing over a long period, as the Commission noted in R2010-4, the exigent rate request. Though the root of the Postal Service’s belated response to the deteriorating conditions rightfully may be found in legislative policy and not management, reacting to the urgency by pushing the Commission to truncate due process bears the hallmarks of short-term decision-making.

NNA does not oppose shorter schedules if they may be accomplished without putting additional cost upon parties by creating unrealistic litigation deadlines. It does oppose eliminating fact-finding in nature of service cases. Without a process for the parties and the Commission to understand the basis of the Postal Service’s plans, the Service’s proposals receive no meaningful oversight and parties are less able to either provide suggestions or assist their industries in adapting.

Respectfully, NNA believes that while the Commission may well find a path to a shorter process, reducing parties’ participation defeats the purpose of oversight and leads to less transparency in the Service at a time when public understanding is most critical.

Respectfully submitted,

Tonda F. Rush
Counsel to National Newspaper Association

King & Ballow
PO Box 50301
Arlington, VA 22205
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the lack of need for it than I was in 2009.